IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.12.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.987 of 2007

Deva @ Devendran .. Petitioner

Vs.

1. The Secretary to Government
of Tamilnadu
Prohibition & Excise Department
Secretariat, Chennai-9.

2. The Commissioner of Police
Greater Chennai City
Egmore, Chennai-8 .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein.

For Petitioner : Mr.N.Selvarajan
For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against the petitioner/detenu, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2.1. The order of detention dated 26.4.2007 was passed on the basis of ground case in Crime No.150 of 2007 for alleged commission of offences under Sections 302, 377 and 506(2) IPC, complaint of which was lodged by one Kumar. According to Kumar, on 16.3.2007 his son left for Thirumangalam and did not return home and on the next day, viz., on 17.3.2007, on information from relatives, he found his

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

son murdered by somebody. Based on the statement of Kumar, a case was registered and the detenu was apprehended.

2.2. Apart from the above, the detaining authority also took not of the one adverse case pending against the detenu, viz., Crime No.604 of 2001 registered on the file of Aminjikarai Police Station for the offence punishable under Section 379 of IPC with reference to the occurrence said to have taken place on 9.6.2001.

2.3. The detaining authority, having satisfied that the detenu is indulging in activities which are prejudicial to maintenance of public order, passed the impugned order.

3. Challenging the said detention, the detenu has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to call for the records of the second respondent in Memo No.177/BDFGISSV/2007, dated 26.4.2007, to quash the same and to thereby direct the respondents to produce him, now confined at Central Prison-II, Puzhal, Chennai before this Court and to set him at liberty.

4. The learned counsel for the petitioner assailed the order of detention on the ground of non-application of mind. He submits that there is no proximity between the adverse case, which was registered for offence under Section 379 I.P.C. said to have taken place on 9.6.2001 and the ground case, which was registered for the offence under Sections 302, 377 and 506(2) IPC for the occurrence said to have taken place on 16.3.2007.

5. We have heard the learned Additional Public Prosecutor and also perused the documents available on record.

6. In the case on hand, the adverse case relates to the offence punishable under Section 379 IPC with reference to an occurrence said to have taken place on 9.6.2001, whereas the ground case relates to the offence punishable under Sections 302, 377 and 506(2) IPC with reference to an occurrence said to have taken place on 16.3.2007.

7. It is well settled law that a solitary instance as mentioned in the grounds of detention is not relevant for sustaining the order of detention for the purpose of preventing the petitioner from acting in a manner prejudicial to the maintenance of public order. In the instant case, there is no proximity in between the ground case and the adverse cases and the link between the prejudicial activities and the order of detention, thus, got snapped away. The order of detention is therefore, liable to be set aside on the ground of non-application of mind.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

For the reasons aforesaid, this petition is allowed and the detention order dated 26.4.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

Sasi

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To:

1. THE SECRETARY TO GOVERNEMENT OF TAMIL NADU
PROHIBITION AND EXCISE DEPT
FORT ST GEORGE, CHENNAI-09

2. THE COMMISSIONER OF POLICE
GREATER CHENNAI CITY,EGMORE
CHENNAI -08

3. THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAL, CHENNAI.

4. THE JOINT SECRETARY TO GOVT
PUBLIC LAW AND ORDER DEPARTMENT,
FORT ST GEORGE, CHENNAI-9.

5. THE PUBLIC PROSECUTOR,
HIGH COURT, CHENNAI.

+ One cc to Mr. N. Selvarajan, Advocate SR 71348

MA (co)
sg 04/01/08

H.C.P.No.987 of 2007

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/